

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DAVID PEARCE,

Petitioner,

v.

LOUIS WILLIAMS II,

Respondent.

ORDER

Case No. 16-cv-00562-bbc

In light of the United States Supreme Court's recent opinion in *Mathis v. United States*, -- U.S. ----, 136 S. Ct. 2243 (2016), pro se petitioner David Pearce requests a writ of habeas corpus, freeing him from the custody of Federal Correctional Institution in Oxford, Wisconsin, under a sentence imposed by the United States District Court for the Northern District of Illinois in N.D. Ill. Case No. 06 CR-50031. Petitioner claims, and the government agrees, that under *Mathis* the sentencing court erred in finding that his 1997 and 1998 Illinois burglary convictions qualified as predicate convictions to enhance his sentence under the Armed Career Criminal Act (ACCA).

In December 2006, petitioner pleaded guilty to one count of possessing a firearm as a felon, in violation of 18 U.S.C. § 922(g)(1). On April 27, 2007, petitioner was sentenced to a mandatory minimum of 15 years in prison, based on the sentencing court's conclusion that petitioner was subject to the ACCA's enhanced penalties due to four prior Illinois burglary convictions. In light of *Mathis*, the government agrees that two of petitioner's prior burglary convictions no longer qualify as ACCA predicates; that he is no longer eligible for sentencing under the ACCA; and that petitioner has satisfied all the criteria for obtaining relief from his ACCA sentence under 28 U.S.C. § 2241. Because the petitioner has already served more than

the otherwise-applicable statutory *maximum* sentence of ten years for his violation of 18 U.S.C. § 922(g)(1), the government further agrees that he is entitled to immediate release from prison on the terms and conditions imposed by the United States District Court for the Northern District of Illinois in N.D. Ill., Case No. 06 CR 50031.

This court agrees as well. Accordingly,

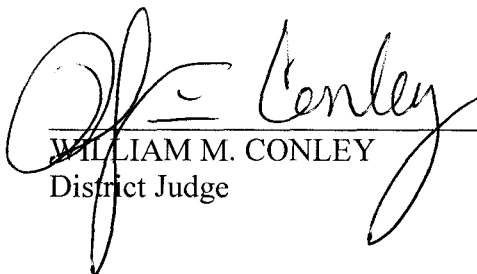
ORDER

IT IS ORDERED that:

1. The unopposed petition for writ of habeas corpus under 28 U.S.C. § 2241 is GRANTED.
2. Effective immediately, petitioner will be released from custody subject to the terms and conditions of his supervised release set forth in *United States v. Pearce*, Case No. 06 CR 50031, dkt. #31, at 4 (N.D. Ill. April 27, 2007).
3. Jurisdiction over petitioner is now with the United States District Court for the Northern District of Illinois for further proceedings in N.D. Ill. Case No. 06 CR 50031 as that court deems appropriate.
4. The clerk's office is directed to forward a copy of this decision to the Clerk of Court and Probation Office for the Northern District of Illinois, and to close this case.

Entered this 23rd day of February, 2017.

BY THE COURT:


WILLIAM M. CONLEY
District Judge